THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.25583 of 2000

DATED: 26.07.2007

Between:

SHIRIDI SAI BABA SPIRITUAL CENTRE,
Behind SFS School, Seethammadara,
Visakhapatnam, rep. by its Managing Trustee
Sri T.S.Rajeshwaran.

.. Petitioner

And

The Commissioner of Endowments,
State of Andhra Pradesh,
Tilak Road, Hyderabad
and others.

.. Respondents

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

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ORDER:

This writ petition is filed seeking a Writ of Certiorari to call for the records of the first respondent in R.C.No.G4/39151/2000, dated 03.11.2000, and quash the same, and further declare that Saibaba Temple at Shiridi Spiritual Center, Seethammadhara, Visakhapatnam is not a Hindu religions institution or endowment within the preview of A.P.Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act').

It is the case of the petitioner that in the year 1985, some of the residents of Visakhapatnam constituted a trust known as Sri Shiridi Saibaba Spiritual Center under a registered trust deed dated 7.4.1985 being document No.367 on the file of Joint Sub-Registrar, Visakhapatnam. To achieve the objects of the said Spiritual Centre, it obtained a perpetual lease in the year 1985 a bit of land in an extent of 1131.19 sq. meters in the lay out of Visakhapatnam Urban Development Authority situated at Seethammadhara area of Visakhapatnam, with the contributions made by the trustees and other devotees of Shirdi Saibaba, a temple of Saibaba was constructed after obtaining sanction plan from the Municipal Corporation of Visakhapatnam. Now, the temple is a double storied building having there in the sanctum of Bhagwan Shirdi Saibaba and also a meditation

hall, and besides the main temple of Shirdi Saibaba, small idols of other deities like Kumaraswamy, Vinayaka, Venkateswara Swami etc. are installed on the sides of the main temple. The trust also developed a garden in the vacant land outside the temple known as Saibaba Children's park.

Further, the petitioner submitted that the temple of Saibaba cannot be treated as a Hindu temple, since Saibaba during his life propagated a composite religion of universal character, and all the devotees of Saibaba believe in this religious philosophy, a temple of Saibaba cannot be called a Hindu religious institution and the A.P.Charitable and Hindu Religious Institutions and Endowments Act is not applicable to this.

The main grievance of the petitioner is that when a similar issue has arisen in **Deputy Commissioner of Endowments vs. Saibaba Samsthanam**[1], this Hon'ble Court held that the Act is not applicable to a temple of Shirdi Saibaba. But, contrary to this judgment, the second respondent by describing the temple as "Shri Mahagnapathi Prasanna Venkatswara Aiyyappa etc. temples" issued a notice in RC.No.A1/1927/2001-1, dated 16.10.2000 directing the person in management of the temple to file an application for registration under Section 43 of the Act, with an intention to bring the temple within the purview of the Act. However, after receipt of the said notice, a representation dated 01.12.2000 was sent by registered post to the second respondent to exclude the Shirdi Saibaba Spiritual Centre from his administrative control and also to afford an opportunity of hearing before taking any further decision.

Further, the petitioner's grievance is that without affording any opportunity to it, the second respondent has submitted its report, on which, the first respondent passed the impugned order dated

03.11.2000 appointing an Executive Officer to the said temple. The petitioner even received a caveat application stating that it is likely to file a suit questioning the proceedings of the first respondent appointing the third respondent as an Executive Officer to the said temple. Hence, this writ petition.

When the matter is taken up for hearing, it is brought to the notice of this Court by the learned counsel for the petitioner stating that subsequent to the filing of this writ petition, the Government issued G.O.Ms.No.1572 on 24.10.2006 exempting Shirdi Saibaba Temples and Sri Kanyakaparameshwari Temples from the operation of Sections 15 and 29 of the Act.

In the light of the said instructions issued in the said G.O, this Court is of the view that this writ petition can be allowed and accordingly, a direction is hereby issued to the respondents to hand over the management of Shirdi Saibaba Temple situated at Seethammadhara to the petitioner's Trust.

Accordingly, this writ petition is allowed. However, it appears that after issuing *rule nisi* on 22.12.2000, this Hon'ble High Court was pleased to pass interim order on 14.02.2001 to jointly seal the hundies situated in the temple by the person appointed as an Executive Officer. As the said hundies are completely filled up, this Court by another order dated 14.12.2001 permitted the petitioners to open the hundies jointly in the temple in the presence of the Assistant Commissioner and the amount so collected in the hundies was directed to be kept in fixed deposit in joint account. Further, in the light of the orders allowing this writ petition, the fixed deposit kept in the joint account shall be refunded to the Trust Board of the petitioner, which is managing the affairs of the temple, forthwith.

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(GOPALA KRISHNA TAMADA,J)

Dt.26.07.2007
v v

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[1] 1991 (1) ALT page 164